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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Establish a Framework and Processes
for Assessing the Affordability of
Utility Service.

Rulemaking 18-07-006

**ASSIGNED COMMISSIONER'S
FIFTH AMENDED SCOPING MEMO AND RULING**

This Fifth Amended Scoping Memo and Ruling (Fifth Amended Scoping Memo) sets forth the category, issues to be addressed, and schedules for the third phase of this proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1 and Article 7 of the Public Utilities Commission's (Commission or CPUC) Rules of Practice and Procedure (Rules). The third phase of this proceeding will consider strategies to limit and/or mitigate future energy rate increases, including strategies proposed at the February 24, 2021 Electric Rates and Costs En Banc Meeting (En Banc).

1. Introduction

1.1. Procedural Background

On July 12, 2018, the Commission instituted this rulemaking to develop a common understanding of the criteria, methods, and processes to assess, consistent with Commission jurisdiction, the impacts on affordability of individual Commission proceedings and utility rate requests.

The initial history of this proceeding is reviewed in the Second Amended Assigned Commissioner's Scoping Memo and Ruling (Second Amended Scoping Memo) issued June 9, 2020 and is incorporated here by reference. The Second

Amended Scoping Memo structured a second phase of this proceeding, to pursue implementation of the metrics at the Commission. On July 16, 2020, the Commission issued Decision (D.) 20-07-032 Adopting Metrics and Methodologies for Assessing the Relative Affordability of Utility Service. In April 2021, the Commission published the first of the annual affordability reports quantifying the relative affordability of utility services in 2019 for representative households and communities throughout California. A Phase 2 proposed decision on implementing the affordability metrics is anticipated in April 2022.

On September 15, 2021, a Fourth Amended Scoping Memo was issued, outlining the preliminary scope and schedule for Phase 3 of this proceeding. Parties filed comments on the preliminary scope and schedule of the third phase on October 15, 2021. On October 22, 2021, a prehearing conference (PHC) was conducted where parties provided further comments on the Phase 3 scope and schedule.

2. Statutory Background

As noted in D.20-07-032, a statutory basis for assessing energy affordability exists in Pub. Util. Code¹ Section 739(d)(2), which expresses the intent that residential electric and gas rates are “low [and] affordable.” Additionally, Section 382 states that “all residents of the state should be able to afford essential electricity and gas supplies.”

For well over a decade, the legislature also has mandated annual Commission reports on (1) the cost drivers of electric and gas rates of the major

¹ All references hereafter to “section” refer to sections of the California Public Utilities Code.

energy investor-owned utilities (IOUs),² and (2) actions to limit or reduce energy utility costs, relative to cost and rate trends.³

2.1. Policy Background

On February 24, 2021, the Commission held an En Banc to discuss the Commission's draft report pursuant to Section 913.1, termed the 2021 Senate Bill (SB) 695 Report. The 2021 SB 695 Report cautioned of long-term increases in electric costs and rates, with implications for equity and affordability if not directly addressed. The report also warned that rising rates, if left unchecked or handled incorrectly, could make transportation and building electrification policy goals more difficult to achieve.

At the En Banc, California decision-makers heard from experts on utility rates, clean energy programs, and wildfire mitigation about ways to ensure California can modernize its energy system while maintaining affordable rates. In addition to the ideas and observations discussed at the En Banc, written comments were submitted by stakeholders following the En Banc.⁴ This exchange of ideas is documented in Addendum 2 of the final 2021 SB 695 Report⁵ submitted to the legislature in May 2021.

The 2021 SB 695 Report provides an important foundation for future work on controlling the growth of electric rates while ensuring that the state's policy priorities are adequately funded. Proposed strategies to contain costs and mitigate rate increases recommended by En Banc panelists and commenters, as

² Section 913, or the Assembly Bill (AB) 67 Report.

³ Section 913.1, or the 2021 SB 695 Report.

⁴ Individual comment filings can be found on the CPUC's En Banc website at: <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/en-banc-rates-and-costs/>.

⁵ https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/en-banc/senate-bill-695-report-2021_en-banc-white-paper.pdf

well as the documented comments in the 2021 SB 695 Report, include the following priority measures:⁶

1. Reducing residential volumetric rates and considering the adoption of income-based fixed charges;
2. Shifting funding for programs that provide societal benefits from ratepayers to taxpayers;
3. Disincentivizing the purchase of gasoline vehicles, perhaps through a carbon fee and/or strategic rate designs;
4. Coordinating non-ratepayer funded program interventions with the legislature and other agencies;
5. Replacing ratepayer subsidies with regulatory mandates;
6. Requiring utilities to file an alternative Consumer Price Index-constrained revenue proposal to reduce “anchor bias” and limit rate growth in rate cases;
7. Using Risk Spend Efficiency data to transparently prioritize the most cost-effective safety spending;
8. Prioritizing vulnerable communities for baseline and rate adjustments;
9. Adopting wildfire mitigation surcharges for customers in Tier 3 fire threat areas;
10. Approving utility self-insurance for wildfire-related liabilities;
11. Implementing additional controls on increasing transmission costs;
12. Reducing IOU authorized Return on Equity;
13. Eliminating the fixed energy price option for must-take contracts with qualifying facilities;

⁶ This list represents a subset of strategies proposed by stakeholders and is intended to be illustrative only. It is not intended to rank or prioritize strategies for Commission consideration in Phase 3.

14. Allowing IOUs more flexibility in selling renewable energy credits;
15. Evaluating natural gas rates and affordability in coordination with the Gas Transition Rulemaking; and
16. State ownership and financing of transmission assets.

**2.1.1. Leveraging the Affordability Tools
for Phase 3 Considerations**

It is important to note that the Cost and Rate Tracking Tools (CRTs) and Affordability Ratio Calculator being considered in Phase 2 of this proceeding are anticipated to allow parties and the Commission to evaluate up to several years of revenue, rate and bill impacts based on the total requests by each IOU. These estimates will serve as a proxy until a final decision with a specific revenue/budget is approved by the Commission. As described below, they serve as a bridge between evaluating the incremental, piecemeal, one-off decisions and programs and a complete assessment of the consolidated processes (e.g., the difference between a single General Rate Case or other ratesetting application and a more comprehensive review, such as the state budget process). Thus, when paired together, the CRT inputs and the Affordability Ratio outputs work synergistically to offer a more complete projection of affordability for the future. However, this multi-year outlook on affordability across the IOU territories is informational and does not create any limits on potential rate increases or containment of costs.

The Commission's foundational work on electricity costs, which includes both the 2021 SB 695 Report and the first of annual Affordability Reports, led to my decision to open a third phase of this proceeding to examine strategies to contain energy cost, rate, and bill increases. After considering the party comments filed October 15, 2021, and discussion at the PHC, I have determined

the issues and initial schedule of the proceeding to be set forth in this scoping memo.

3. Issues

Phase 3 is dedicated to further consideration of strategies to limit and/or mitigate future energy rate increases, including strategies first proposed by stakeholders during the En Banc and in comments on the En Banc. This phase will also explore potential processes that would consider how the Commission could review augmented expenses annually and cumulatively (similar to the annual energy True-Up⁷) while allowing the Commission the ability to maintain some rate increase control (similar to the state budget process). The Commission will examine whether changes to Commission rules and practices, the rules and practices of other entities, and current statutes should be recommended to limit and/or mitigate future rate increases.

The issues to be determined or otherwise considered are:

1. What actions, if any, should the Commission take to limit and/or mitigate future increases in energy costs, rates, and bills for all classes/categories of ratepayers? Would these proposed actions result in cost shifting between ratepayer classes/categories?
2. What actions, if any, should the Commission recommend other entities take to limit and/or mitigate future increases in energy costs, rates, and bills for all classes/categories of ratepayers?
3. Before approval, what processes, information or approaches could support understanding individual proposed capital expenditures and expenses' impacts

⁷ The major electric and gas utilities change rates a few times per year to implement revenue requirements and rate design changes authorized by the Commission and federal regulatory agencies. Many of the changes are presented in annual energy True-Up submitted in Advice Letters.

on affordability and rates in the context of the IOUs' overall operations? Should the Commission adopt or require any such processes or approaches?

4. Other entities (such as the State Legislature) review and approve most expenses in a consolidated process, giving insight into the cumulative impact and tradeoffs of all the proposals. Could the Commission create a process that would function similarly?
5. How can the Commission ensure that the rate impact tools developed by staff are used and useful during the consideration of individual programs and applications?
6. Impacts on environmental and social justice communities, including the extent to which mitigating future energy rate increases impacts achievement of any of the nine goals of the Commission's Environmental and Social Justice Action Plan.

While the scope of Phase 3 is particular to the energy industry, we may revisit affordability specific to the water and communications industries in a subsequent phase of this proceeding. Additionally, we intend to monitor related strategies developing in the Low-Income Water Affordability proceeding (Rulemaking (R.) 17-06-024).

3.1. Natural Gas

While the 2021 SB 695 Report is focused on rising *electric* costs and rates, the need to mitigate rising natural gas costs and rates is an express concern of the legislature as well as many parties to this proceeding. Addendum 1 of the 2021 SB 695 Report documents recent trends in natural gas utility revenue requirements and rates and describes a number of activities underway at the Commission to limit cost and rate increases, including the *Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning* (R.20-01-007,

Long-Term Gas Planning Rulemaking). The scoping memo in R.20-01-007 generally identifies gas affordability issues tied to reduced demand for fossil gas, along with recognition of links to other proceedings, including the instant Rulemaking. This proceeding will include gas affordability issues because both gas as a heating source and a fuel source for electricity generation may impact customer affordability of energy. Moreover, in light of these linkages across proceedings, close coordination will be essential to ensure adequate coverage of gas and electric affordability proposals at a more granular level with the tools and evaluation criteria developed thus far in R.18-07-006. Therefore, in order to consider and explore the customer viewpoint without constraint, it is important to retain gas affordability within the scope of Phase 3. To ensure consistency between proceedings, coordination with the efforts between this proceeding and R.20-01-007 will occur.

Because the affordability of electric and gas service are interrelated, and because this proceeding provides the Commission a venue for considering cross-industry issues, we determine that strategies to mitigate both gas and electric costs and rates are appropriately addressed in Phase 3 of this proceeding.

3.2. Classes and Categories of Customers

This scoping memo finds that affordability issues related to all customer classes will be considered in Phase 3.

The initial and amended scoping memos excluded from the scope affordability issues related to customer classes other than residential customers, with an indication that impacts on other customer classes may be included at a later stage in the proceeding. The cost strategies scoped in this third phase of the proceeding are likely to impact all customers regardless of class or category, therefore all customer classes are included.

4. Need for Evidentiary Hearing

We determine that hearings will not be necessary in Phase 3 as most of the issues are policy, not factual issues. This does not preclude a party from requesting an evidentiary hearing in the future if material disputed facts are discovered during the pendency of Phase 3.

5. Phase 3 Schedule

As noted by the Administrative Law Judge (ALJ) at the PHC, in response to party comments we add to the preliminary schedule of Phase 3 events two additional workshops below.

EVENT	DATE
Amended Scoping Memo, Issued	January 2022
Electric and Gas Rates En Banc, Hold	February/March 2022
Ruling Soliciting Recommendations and Considerations on Proposed Strategies to Mitigate Energy Rate Increases, Issue	March/ April 2022
Party Recommendations, File and Serve	May 2022
Workshop based on Party Recommendations and Considerations, Hold	July 2022
Party Opening and Reply Comments on Recommendations, File and Serve	August/September 2022
Staff Proposal on Recommended Strategies to Mitigate Energy Rate Increases, Issue	Q1 2023
Workshop on Staff Proposal, Hold	Q1 2023
Reply Comments on Staff Proposal, File and Serve	Q2 2023
Phase 3 Proposed Decision, Issue	Q2-Q3 2023

Revisions to this schedule may be adopted in a future ruling issued by the assigned Commissioner or ALJ. A Commission decision resolving the issues in

the third phase of this proceeding is expected in the second or third quarter of 2023.

Furthermore, the Commission's Energy Division may schedule additional workshops in this proceeding, and the service list will be noticed as to any such workshops that are scheduled at least 10 days in advance.

Based on this schedule, the proceeding will not be resolved within 18 months as required by Pub. Util. Code Section 1701.5. Additional time is needed to further consider how to implement the affordability methodologies and metrics, and address projections of electric rate increases within the affordability framework adopted by the Commission. The statutory deadline for this proceeding is therefore extended through December 31, 2023.

6. Category of Proceeding/ *Ex Parte* Restrictions

This ruling confirms the Commission's existing determination that this is a quasi-legislative proceeding. Accordingly, *ex parte* communications are permitted without restriction or reporting requirement pursuant to Article 8 of the Commission's Rules.

7. Public Outreach

Pursuant to Pub. Util. Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the September 2021 edition of the Commission's monthly Working for California newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website. The Commission's Business and Community Outreach Office also sent an information release and link to the proceeding to approximately 2,500 contacts statewide, including local government (*e.g.*, county supervisors, city managers, mayors, and public works directors in the state), community-based organizations, and media.

In addition to the service list for this proceeding, the Commission will serve this Fifth Amended Scoping Memo on the official service lists of the proceedings listed below.

	Topic	Proceeding Number
1	SCE Test Year 2021 General Rate Case	Application (A.) 19-08-013, <i>et al.</i>
2	PG&E Test Year 2023 General Rate Case	A.21-06-021
3	SDG&E Test Year 2019 General Rate Case	A.17-10-007
4	SCE General Rate Case Phase 2	A.20-10-012
5	PG&E General Rate Case Phase 2	A.19-11-019
6	SDG&E General Rate Case Phase 2	A.19-03-002
7	SoCalGas Test Year 2019 General Rate Case	A.17-10-008
8	Southwest Gas Test Year 2021 General Rate Case	A.19-08-015
9	West Coast Gas Test Year 2021 General Rate Case	A.20-09-002
10	Cost of Capital (SCE, SDG&E, PG&E)	A.21-08-013, <i>et al.</i>
11	AB 970 Interconnection/Transmission Project Reports	Investigation 00-11-001
12	Net Energy Metering Revisit	R.20-08-020
13	Small and Multi-Jurisdictional Energy Savings Assistance and California Alternate Rates for Energy Programs and Budgets	A.20-03-014, <i>et al.</i>
14	IOU Energy Savings Assistance and California Alternate Rates for Energy Programs and Budgets	A.19-11-003, <i>et al.</i>
15	San Joaquin Valley	R.15-03-010
16	Long-Term Gas Planning Rulemaking	R.20-01-007
17	Energy COVID Relief Rulemaking	R.21-02-014

18	Water Affordability Rulemaking	R.17-06-024
19	Rate Reform Rulemaking	R.12-06-013

The Commission will also serve this scoping memo on the following entities:

1. California Energy Commission;
2. California Air Resources Board;
3. Native American Heritage Commission list of California tribes;
4. California Independent System Operator;
5. Low-Income Oversight Board; and
6. Disadvantaged Communities Advisory Group.

8. Intervenor Compensation

As the list of issues has changed from those listed in the Fourth Amended Scoping Memo issued September 15, 2021, pursuant to Pub. Util. Code Section 1804(a)(1), notices of intent to claim intervenor compensation are due 30 days from the date this scoping memo is issued.

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 1-866-849-8390 or 1-415-703-2074 or 1-866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Service of Documents on Commissioners, Their Personal Advisors, and the ALJ

Rule 1.10 requires only electronic service on any person on the official service list other than the ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

11. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Camille Watts-Zagha is the assigned Administrative Law Judge for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. Evidentiary hearings are not needed at this time.
4. The category of the proceeding is quasi-legislative.
5. The Executive Director will cause this Fifth Amended Scoping Memo and Ruling to be served on the service lists for the Commission proceedings listed in Section 7 above.

Dated January 18, 2022, at Sacramento, California.

/s/ DARCIE L. HOUCK

Darcie L. Houck
Assigned Commissioner